

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

David Lawson,

Petitioner,

v.

Case No. 2:10-cv-548

**Warden, Ross Correctional
Institution,**

**Judge Michael H. Watson
Magistrate Judge King**

Respondent.

ORDER

On September 28, 2011, the United States Magistrate Judge recommended that the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be dismissed. *Report and Recommendation*, Doc. No. 13. Specifically, the Magistrate Judge concluded that claim one was without merit, that claim two was procedurally defaulted and that claim three was without merit or procedurally defaulted. This matter is now before the Court on Petitioner's objections to that recommendation. *Motion for Reconsideration and Objections*, Doc. No. 17. The Court will consider the matter *de novo*. See 28 U.S.C. §636(b); Fed. R. Civ. P. 72(b).

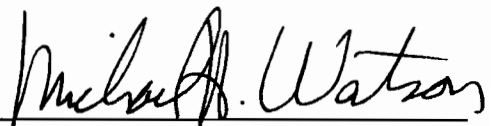
Petitioner objects to all of the Magistrate Judge's recommendations, raising the same arguments previously presented. Having carefully reviewed the record in this action, the Court agrees with the reasoning of the Magistrate Judge and finds Petitioner's arguments unpersuasive.

Petitioner also asserts for the first time the ineffective assistance of counsel as cause for his procedural default of claims not raised on direct appeal. In support of this new allegation, Petitioner has attached letters allegedly written to his appellate counsel and

a copy of a motion for production of documents. A claim of ineffective assistance of counsel cannot serve as cause for a procedural default, however, unless that claim has also been presented to the state courts. *Edwards v. Carpenter*, 529 U.S. 446, 452–53 (2000). It does not appear that Petitioner ever presented such a claim to the state courts. Petitioner has therefore not established cause for his procedural default.

Having reviewed the matter *de novo*, the Court **OVERRULES** Petitioner's objections to the *Report and Recommendation*. The *Report and Recommendation* is **ADOPTED** and **AFFIRMED**. This action is hereby **DISMISSED**.

The Clerk shall enter **FINAL JUDGMENT**.


MICHAEL H. WATSON, JUDGE
UNITED